

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
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6 IN RE: HIGH-TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11-CV-2509-LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
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14 CONFIDENTIAL - ATTORNEYS' EYES ONLY
15 VIDEO DEPOSITION OF MARK BENTLEY
16 August 23, 2012
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20 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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05:36:48 1 purposes of determining or setting employee

05:36:50 2 compensation?

05:36:51 3 MR. RILEY: Objection. Question is overbroad.

05:36:53 4 No foundation.

05:37:01 5 THE WITNESS: Do we set job levels for the

05:37:04 6 purposes of setting compensation?

05:37:07 7 MR. SAVERI: Q. Yes.

05:37:15 8 A. I believe it is -- it's one vehicle that we use

05:37:19 9 to ultimately determine that.

05:37:24 10 Q. Now, as a general matter, were changes made for

05:37:31 11 employee compensation through changes in job categories

05:37:35 12 or job classifications?

05:37:40 13 A. Can you please repeat that question.

05:37:41 14 Q. As a general matter, were changes made to

05:37:44 15 compensation for Apple employees through changes to job

05:37:47 16 categories or job classifications?

05:37:50 17 MR. RILEY: Objection. The question is vague.

05:37:52 18 No foundation.

05:37:55 19 THE WITNESS: I believe there may be

05:37:56 20 circumstances when that was the case. But I don't know

05:37:58 21 if that was a general practice.

05:38:01 22 MR. SAVERI: Q. Well, is it fair to say

05:38:04 23 that from time to time, persons move from one job

05:38:09 24 classification to another at Apple?

05:38:17 25 A. I'm not sure I follow your question.

05:38:18 1 Q. Well, when an employee came to Apple, were they
05:38:22 2 put in -- were they assigned a job classification or job
05:38:27 3 category?

05:38:29 4 A. I believe that would be the case.

05:38:31 5 Q. And was one way their salary was increased, or
05:38:34 6 the compensation was increased, to be moved from one job
05:38:38 7 level or job classification to another job level or job
05:38:41 8 classification?

05:38:45 9 A. I would -- my understanding is that one
05:38:48 10 would -- my interpretation of that is it's done through
05:38:54 11 promotions and taking on more responsibility.

05:38:58 12 Q. And when someone was promoted, would they be
05:39:01 13 promoted to a higher job classification or job category?

05:39:06 14 A. I believe so.

05:39:08 15 Q. And as a consequence of that, or in connection
05:39:10 16 with that, if they were promoted, they would generally
05:39:14 17 receive more compensation. Is that fair?

05:39:18 18 A. I believe that would be the case.

05:39:22 19 Q. From time to time, did Apple raise the
05:39:25 20 compensation for a particular job category or job level?

05:39:33 21 MR. RILEY: Objection. Question is overbroad
05:39:35 22 and there is no foundation.

05:39:43 23 THE WITNESS: I believe that that would be
05:39:45 24 taken -- I believe if and when that was done, it was
05:39:48 25 done on an annual basis during compensation planning.

05:39:53 1 MR. SAVERI: Q. So, for example, were
05:39:54 2 there employees at Apple who received increases in
05:39:58 3 salary, although they didn't receive a promotion to
05:40:01 4 a different job category or job classification?

05:40:06 5 MR. RILEY: Objection. The question is
05:40:08 6 overbroad and there is no foundation.

05:40:20 7 THE WITNESS: So I believe that that would
05:40:22 8 occur with what we would call merit -- the merit time,
05:40:28 9 or what other companies call focal period, which is done
05:40:33 10 on an annual basis to keep up with inflationary
05:40:37 11 conditions in the market. And that's not to say that
05:40:40 12 all employees saw adjustments to their compensation.

05:40:46 13 MR. SAVERI: Q. Fair enough.

05:40:53 14 Do you know if the market survey information
05:40:55 15 was used in considering whether or not Apple should make
05:40:58 16 those changes to salary levels for particular job levels
05:41:03 17 or job classifications?

05:41:06 18 MR. RILEY: Question is overbroad and there is
05:41:08 19 no foundation. It's vague as to time.

05:41:13 20 THE WITNESS: Again, I believe it's a vehicle
05:41:15 21 that was considered. How it was weighted, I can't tell
05:41:21 22 you.

05:41:25 23 MR. SAVERI: Q. Going back to Exhibit 268,
05:41:32 24 you, in your email to yourself, attach an email from
05:41:39 25 Gilda Montesino to staffing. Do you see that?

05:57:59 1 MR. SAVERI: Q. Did Apple review the
05:58:04 2 compensation levels or the amount of compensation
05:58:07 3 for particular job titles or classifications on a
05:58:10 4 regular basis?

05:58:13 5 MR. RILEY: Objection. The question is vague
05:58:14 6 as to compensation.

05:58:22 7 THE WITNESS: So as the interim HR head, my
05:58:25 8 specialty was recruiting. It was never my experience
05:58:28 9 that we had issues with competing in the market with
05:58:35 10 getting great talent because of compensation.

05:58:39 11 MR. SAVERI: Q. Well, was there ever a
05:58:41 12 situation that you were aware of where Apple
05:58:44 13 believed it had to increase salaries for particular
05:58:47 14 job categories in order to stop or prevent attrition
05:58:50 15 or departure from Apple?

05:58:54 16 MR. RILEY: Objection. The question is
05:58:55 17 overbroad and there is no foundation.

05:59:00 18 THE WITNESS: [REDACTED]

05:59:02 19 [REDACTED]

05:59:05 20 [REDACTED]

05:59:12 21 [REDACTED]

05:59:18 22 MR. SAVERI: Q. Did Apple employees
05:59:21 23 receive merit bonuses?

05:59:27 24 MR. RILEY: Objection. The question is vague.

05:59:30 25 THE WITNESS: I don't understand your question.

05:59:31 1 MR. SAVERI: Q. Well, did -- were Apple
05:59:37 2 employees eligible to receive increased compensation
05:59:41 3 based on merit or performance?

05:59:45 4 MR. RILEY: Same objection.

05:59:46 5 THE WITNESS: Again, I think it depended on the
05:59:51 6 organization and the executive that was managing the
05:59:56 7 organization as it related to how he or she used their
06:00:01 8 discretion.

06:00:02 9 MR. SAVERI: Q. So is it fair to say that
06:00:03 10 those managers or persons that you identified had
06:00:05 11 discretion to award or provide bonuses or increased
06:00:11 12 compensation for merit or performance?

06:00:13 13 MR. RILEY: Objection. The question is overly
06:00:14 14 broad with regard to employee categories.

06:00:21 15 THE WITNESS: So from my vantage point, as the
06:00:26 16 interim HR, merit -- annual merit eligibility and bonus
06:00:31 17 were two different -- two different conversations, if
06:00:35 18 you will. And it depended on the executive -- the
06:00:40 19 executive's discretion.

06:00:42 20 MR. SAVERI: Q. Okay. Let's break them
06:00:44 21 into pieces. With respect to merit, who
06:00:48 22 determine -- well, can you describe the merit
06:00:51 23 process.

06:00:56 24 A. The merit process is, I think, similar to many
06:01:01 25 companies. [REDACTED]

06:01:07 1 [REDACTED]
06:01:14 2 [REDACTED]
06:01:22 3 [REDACTED]
06:01:28 4 [REDACTED].

06:01:34 5 MR. SAVERI: Q. How did the bonus portion
06:01:35 6 of compensation work? What was the process,
06:01:37 7 generally, for determining that?

06:01:39 8 MR. RILEY: Objection. The question is overly
06:01:41 9 broad and vague.

06:01:42 10 THE WITNESS: It's -- it varies greatly.

06:01:45 11 MR. SAVERI: Q. Okay. Who had -- were the
06:01:47 12 particular persons or -- strike that.

06:01:50 13 Was the compensation committee responsible for
06:01:54 14 determining bonuses?

06:01:56 15 MR. RILEY: Objection. The question is overly
06:01:57 16 broad and vague.

06:02:01 17 THE WITNESS: The compensation committee, I
06:02:03 18 believe, was responsible or had discretion over the
06:02:07 19 executive team bonuses. But I do not know -- I don't
06:02:12 20 think they had -- they weren't -- they were involved in
06:02:16 21 approving a general framework, and that would then --
06:02:19 22 for the lower levels it was up to the actual individual
06:02:22 23 managers.

06:02:31 24 MR. SAVERI: Q. When a new employee is
06:02:33 25 hired by Apple, how is the job title and the level

06:02:38 1 of compensation for that individual generally
06:02:41 2 determined?

06:02:43 3 MR. RILEY: Objection. The question is overly
06:02:45 4 broad and there is no foundation.

06:02:47 5 THE WITNESS: It depends on -- it depends on
06:02:49 6 the functional discipline. Depends on the leveling, you
06:02:54 7 know, if we're talking about the -- if we're talking
06:02:57 8 about high volume recruiting, say, in retail or in our
06:03:01 9 call centers versus the exec search team. It varied
06:03:03 10 greatly.

06:03:05 11 MR. SAVERI: Q. Was the assignment of
06:03:07 12 particular employees to job categories or job titles
06:03:12 13 something that the HR department did, or the
06:03:16 14 recruiting department?

06:03:17 15 Let me ask a better question. What --
06:03:20 16 institutionally, who was responsible for assigning
06:03:24 17 particular employees to particular job classifications
06:03:29 18 or job categories?

06:03:31 19 MR. RILEY: Objection. The question is vague.

06:03:32 20 THE WITNESS: I'm not sure I understand your
06:03:34 21 question specifically. I would answer that question by
06:03:38 22 telling you that in many cases a requisition is created
06:03:46 23 by a hiring manager. And it is at that time that that
06:03:52 24 goes through a process, and then that requisition is
06:03:55 25 then recruited against.

1 I, Gina V. Carbone, Certified Shorthand
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3 No. 8249, hereby certify that the deponent was by me
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15 In witness whereof, I have hereunto set my
16 hand this day: July 6, 2012.

17 ___X___ Reading and Signing was requested.

18 _____ Reading and Signing was waived.

19 _____ Reading and signing was not requested.

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GINA V. CARBONE

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